

BARNES & THORNBURG



IF w ✓

Receipt  
✓

11 South Meridian Street  
Indianapolis, Indiana 46204  
(317) 236-1313  
(317) 231-7433 Fax

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

*Group:* 1631

*Confirmation No.:* 5007

*Application No.:* 10/074,178

*Invention:* MULTI-TEST ANALYSIS OF  
REAL-TIME NUCLEIC ACID  
AMPLIFICATION

*Applicant:* David J. Eyre, et al.

*Filed:* February 12, 2002

*Attorney*  
*Docket:* 7475-69889

*Examiner:* Carolyn L. Smith

**Certificate Under 37 CFR 1.8(a)**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

on July 26, 2005

Rebecca Ball

(Signature)

Rebecca L. Ball

(Printed Name)

**PETITION UNDER 37 C.F.R. § 1.48(a) AND REQUEST FOR CORRECTED FILING  
RECEIPT**

Mail Stop Petition  
Commissioner for Patent  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

The above-captioned application was originally filed with two inventors, David J. Eyre and Carl T. Wittwer. Carl T. Wittwer was inadvertently included as an inventor on the captioned application through error without any deceptive intention on the part of the actual inventor David J. Eyre. David J. Eyre is the only proper inventor for the captioned application.

Applicants hereby submit a new Declaration signed by David J. Eyre as the only inventor for the captioned application. Also transmitted herewith are 1.) a statement from Carl Wittwer, the only inventor being deleted from the captioned application, that the

07/29/2005 MANNED1 0000069 10074178  
130.00 DP  
01 FC:1464

error in inventorship occurred without deceptive intention on his part, 2.) the written consent of Idaho Technology, Inc., the only remaining assignee, 3.) the written consent of the University of Utah Research Foundation (the University of Utah Research Foundation was previously an assignee resulting from an assignment by Carl T. Wittwer; the University of Utah Research Foundation is no longer an assignee), and 4.) a copy of the assignment from David J. Eyre to Idaho Technology, Inc., recorded on reel 012935, frame 0923.

Applicants hereby request that the inventorship be corrected on the captioned application to list David J. Eyre as the only inventor. A copy of the filing receipt is also transmitted herewith indicating the inventorship correction. Applicants also request that a corrected filing receipt be issued listing David J. Eyre as the only inventor.

A check in the amount of \$130 in payment of the petition fee under 37 C.F.R. §1.17(i) is enclosed. The Commissioner is hereby authorized to charge any additional fees which may be required or credit any overpayment to our Deposit Account No. 10-0435, with reference to our matter 7475-69889. A duplicate copy of this paper is enclosed for that purpose.

Respectfully submitted,



Rebecca L. Ball  
Registration No. 46,535  
Attorney for Applicants

RLB:wlb  
Indianapolis, Indiana 46204  
317-231-7511



## BARNES &amp; THORNBURG

11 South Meridian Street  
Indianapolis, Indiana 46204  
(317) 236-1313  
(317) 231-7433 Fax

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group: 1631

Confirmation No.: 5007

Application No.: 10/074,178

Invention: MULTI-TEST ANALYSIS OF  
REAL-TIME NUCLEIC ACID  
AMPLIFICATION

Applicant: David J. Eyre, et al.

Filed: February 12, 2002

Attorney  
Docket: 7475-69889

Examiner: Carolyn L. Smith

Certificate Under 37 CFR 1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

on July 26, 2005

Rebecca Ball

(Signature)

Rebecca L. Ball

(Printed Name)

CONSENT OF ASSIGNEE

Mail Stop Petition  
Commissioner for Patent  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

The University of Utah Research Foundation is presently an assignee of the invention that is the subject of the above-captioned application. The assignment was recorded in the United States Patent Office on May 31, 2002, at reel 012935 and frame 0907 and assigns all rights to the invention from Carl T. Wittwer to the University of Utah Research Foundation. The University of Utah Research Foundation consents to the deletion of Carl T. Wittwer as an inventor from U.S. Patent Application Serial No. 10/074,178, the above-captioned patent application.

Respectfully submitted,  
UNIVERSITY OF UTAH RESEARCH  
FOUNDATION

By:   
Brent Brown  
Interim Director  
Technology Commercialization Office

RLB:wlb  
Indianapolis, Indiana 46204  
317-231-7511

INDS02 RVD 723276v1

BARNES & THORNBURG



11 South Meridian Street  
Indianapolis, Indiana 46204  
(317) 236-1313  
(317) 231-7433 Fax

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

*Group:* 1631

*Confirmation No.:* 5007

*Application No.:* 10/074,178

*Invention:* MULTI-TEST ANALYSIS OF  
REAL-TIME NUCLEIC ACID  
AMPLIFICATION

*Applicant:* David J. Eyre, et al.

*Filed:* February 12, 2002

*Attorney*

*Docket:* 7475-69889

*Examiner:* Carolyn L. Smith

**Certificate Under 37 CFR 1.8(a)**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

on JULY 29, 2005

Rebecca Ball

(Signature)

Rebecca L. Ball

(Printed Name)

**CONSENT OF ASSIGNEE**

Mail Stop Petition  
Commissioner for Patent  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

Idaho Technology, Inc. is an assignee of the invention that is the subject of the above-captioned application. The assignment was recorded in the United States Patent Office on May 31, 2002, at reel 012935 and frame 0923 and assigns all rights of David J. Eyre to the invention to Idaho Technology, Inc. Idaho Technology, Inc. consents to the deletion of Carl T. Wittwer as an inventor from U.S. Patent Application Serial No. 10/074,178, the above-captioned patent application.

Respectfully submitted,



Kirk Ririe

President & CEO, Idaho Technology,  
Inc.

RLB:wlb  
Indianapolis, Indiana 46204  
317-231-7511

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

**DECLARATION FOR UTILITY OR  
DESIGN  
PATENT APPLICATION**  
**(37 CFR 1.63)**

Declaration Submitted With Initial Filing

OR

Declaration Submitted after Initial Filing (surcharge (37 CFR 1.16 (e)) required)

Attorney Docket Number	7475-69889
First Named Inventor	David J. Eyre
COMPLETE IF KNOWN	
Application Number	10/074,178
Filing Date	February 12, 2002
Art Unit	1631
Examiner Name	Carolyn L. Smith

I hereby declare that:

Each inventor's residence, mailing address, and citizenship are as stated below next to their name.

I believe the inventor(s) named below to be the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**Multi-Test Analysis of Real-Time Nucleic Acid Amplification**

*(Title of the Invention)*

the specification of which

is attached hereto

**OR**

was filed on (MM/DD/YYYY) 02/12/2002 as United States Application Number or PCT International

Application Number 10/074,178 and was amended on (MM/DD/YYYY)   (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Certified Copy Attached? YES	Certified Copy Attached? NO
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.

[Page 1 of 2]

This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

## DECLARATION — Utility or Design Patent Application

Direct all correspondence to:		<input checked="" type="checkbox"/> The address associated with Customer Number:	23643	OR	<input type="checkbox"/> Correspondence address below
Name					
Address					
City		State		ZIP	
Country		Telephone		Email	
<p>I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.</p>					
NAME OF SOLE OR FIRST INVENTOR:			<input type="checkbox"/> A petition has been filed for this unsigned inventor		
Given Name (first and middle [if any]) David J.			Family Name or Surname Eyre		
Inventor's Signature 				Date May 5, 2003	
Residence: City Salt Lake City	State Utah	Country United States	Citizenship United States		
Mailing Address 1130 East 600 South 1125 Mercedes Way. (S) May 5, 2003					
City Salt Lake City	State Utah	Zip 84102	Country May 5, 2003	Citizenship United States	
NAME OF SECOND INVENTOR:			<input type="checkbox"/> A petition has been filed for this unsigned inventor		
Given Name (first and middle [if any])			Family Name or Surname		
Inventor's Signature				Date	
Residence: City	State	Country	Citizenship		
Mailing Address					
City	State	Zip	Country		
<input type="checkbox"/> Additional inventors or a legal representative are being named on the _____ supplemental sheet(s) PTO/SB/02A or 02LR attached hereto.					

BARNES & THORNBURG



11 South Meridian Street  
Indianapolis, Indiana 46204  
(317) 236-1313  
(317) 231-7433 Fax

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

*Group:* 1631

*Confirmation No.:* 5007

*Application No.:* 10/074,178

*Invention:* MULTI-TEST ANALYSIS OF  
REAL-TIME NUCLEIC ACID  
AMPLIFICATION

*Applicant:* David J. Eyre, et al.

*Filed:* February 12, 2002

*Attorney*

*Docket:* 7475-69889

*Examiner:* Carolyn L. Smith

**Certificate Under 37 CFR 1.8(a)**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

on July 26, 2005

Rebecca Ball

(Signature)

Rebecca L. Ball

(Printed Name)

Mail Stop Petition  
Commissioner for Patent  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

I, Carl T. Wittwer, state that I am not a co-inventor for the above-captioned patent application, and that my name was inadvertently included in error, without deceptive intention on my part, as an inventor for the captioned application.

Respectfully submitted,

A handwritten signature of Carl T. Wittwer.

Carl T. Wittwer

RLB:wlb  
Indianapolis, Indiana 46204  
317-231-7511



UNITED STATES  
PATENT AND  
TRADEMARK OFFICE



File  
8/15/2  
69889

JULY 31, 2002

BARNES & THORNBURG  
JILL T. POWLICK  
11 SOUTH MERIDIAN STREET  
INDIANAPOLIS, IN 46204

RECEIVED

AUG - 5 2002  
BARNES & THORNBURG



\*102110149A\*

Chief Information Officer  
Washington, DC 20231  
[www.uspto.gov](http://www.uspto.gov)

UNITED STATES PATENT AND TRADEMARK OFFICE  
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 05/31/2002

REEL/FRAME: 012935/0923  
NUMBER OF PAGES: 3

BRIEF: ASSIGNMENT OF ASSIGNEE'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNEE:

EYRE, DAVID J.

DOC DATE: 02/28/2002

ASSIGNOR:

IDaho TECHNOLOGY  
390 WAKURA WAY  
SALT LAKE CIY, UTAH 84108

SERIAL NUMBER: 10074178

FILING DATE: 02/12/2002  
ISSUE DATE:

PATENT NUMBER:

JOANN STEWART, EXAMINER  
ASSIGNMENT DIVISION  
OFFICE OF PUBLIC RECORDS

JUL 28 2005

Tab settings ➡ ➡ ➡

06-04-2002



102110149

Document No.: 7475-69889

EET

U.S. DEPARTMENT OF COMMERCE

Patent and Trademark Office

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

David J. Eyre

5/31/02

Additional names(s) of conveying party(ies)

Yes  No

3. Nature of conveyance:

- Assignment  Merger  
 Security Agreement  Change of Name  
 Other \_\_\_\_\_

Execution Date: February 28, 2002

2. Name and address of receiving party(ies):

Name: Idaho Technology

Internal Address: \_\_\_\_\_

Street Address: 390 Wakura Way

City: Salt Lake City State: UT ZIP: 84108

Additional name(s) & address(es) attached?  Yes  No

4. Application number(s) or patent numbers(s):

If this document is being filed together with a new application, the execution date of the application is: \_\_\_\_\_

A. Patent Application No.(s)

10/074,178

B. Patent No.(s)

Additional numbers attached?  Yes  No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Jill T. Powlick

Internal Address: Barnes & Thornburg

Street Address: 11 South Meridian Street

City: Indianapolis State: IN ZIP: 46204

6. Total number of applications and patents involved: 2

7. Total fee (37 CFR 3.41): ..... \$ 40.00

Enclosed - Any excess or insufficiency should be credited or debited to deposit account

Authorized to be charged to deposit account

8. Deposit account number:

10-0435

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Jill T. Powlick

Q. Q. M.

May 22, 2002

Name of Person Signing

Signature

Date

Total number of pages including cover sheet, attachments, and document:

Mail documents to be recorded with required cover sheet information to:  
Commissioner of Patents & Trademarks, Box Assignments  
Washington, D.C. 20231

06/04/2002 TDIRZ1 00000029 10074178

01 FC:581

40.00 DP

3

ASSIGNMENT TO BUSINESS CONCERN

Attorney Docket No.: 7475-69889  
Client Reference No.: NDR 5047

A S S I G N M E N T

In consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration paid to each of the undersigned,

Name(s)  
of Inventor(s)

David J. Eyre

Title of  
Application

MULTI-TEST ANALYSIS OF REAL-TIME NUCLEIC ACID AMPLIFICATION

the undersigned hereby sell(s), assign(s), and set(s) over to

Name of  
Assignee

Idaho Technology

Address of  
principal  
place of  
business

390 Wakura Way

Salt Lake City, Utah 84108

Insert State of  
Incorporation  
(if applicable) or  
"Not Applicable"

a corporation of Utah

(hereinafter designated as the Assignee) their entire right, title, and interest in, to, and under the Application, including all priority rights for other countries arising therefrom, all inventions therein disclosed, and any and all Letters Patent of the United States and of all other countries, including Canada, which may be granted for such inventions, or any of them, all such inventions and all rights in such Application and Letters Patent to be held and enjoyed by Assignee for its own use and enjoyment to the full end of the term or terms for which such Letters Patent may be granted, as fully and entirely as the same would have been held and enjoyed by them had this assignment and sale not been made.

The undersigned agree(s) to execute all papers necessary in connection with the application(s) in the United States and foreign countries and any continuing, divisional, or reissue applications thereof, and any reexamination of any of such applications, and also to execute separate assignments in connection with such applications as the Assignee may deem necessary or expedient.

The undersigned agree(s) to execute all papers necessary in connection with any interference which may be declared or litigation concerning the application(s) or continuation, division, reissue, or reexamination thereof, and to cooperate with the Assignee in every way possible in obtaining evidence and going forward with such interference or litigation.

The undersigned agree(s) to execute all papers and documents and perform any act which may be necessary in connection with claims or provisions of the International Convention for Protection of Industrial Property or similar agreements.

## ASSIGNMENT TO BUSINESS CONCERN

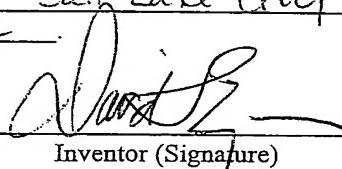
The undersigned agree(s) to do all other acts which, in the opinion of Assignee, may be necessary or desirable to secure the grant of Letters Patent to Assignee or its nominees, in the United States and in all other countries where Assignee may desire to have such inventions, or any of them, patented, with specifications and claims in such form as shall be approved by Assignee and to vest and confirm in Assignee or its nominees the full and complete legal and equitable title to all such Letters Patent.

The undersigned hereby authorize(s) and request(s) the Commissioner of Patents to issue any and all Letters Patent of the United States resulting from said application(s) or any division or divisions or continuing or reissue applications thereof, and any reexamination of any of such applications, to the said Assignee, as Assignee of the entire interest, and hereby covenants that the undersigned has full right to convey the interest herein assigned, and that the undersigned has not executed, and will not execute, any agreement in conflict herewith.

The undersigned hereby grant(s) the attorney of record the power to insert on this assignment any further identification which may be necessary or desirable in order to comply with the rules of the United States Patent and Trademark Office for recordation of this document.

IN WITNESS WHEREOF, I have executed this assignment at Salt Lake City  
this 28 day of February, 2002

Outside the USA: \_\_\_\_\_  
Witnesses are \_\_\_\_\_ Witness \_\_\_\_\_  
required when  
acknowledgment  
before a Notary \_\_\_\_\_  
Public is not \_\_\_\_\_ Witness \_\_\_\_\_  
feasible.

  
Inventor (Signature)

David J. Eyre  
Inventor (Printed Name)

## ACKNOWLEDGMENT

STATE OF Utah }  
COUNTY OF Salt Lake } SS:

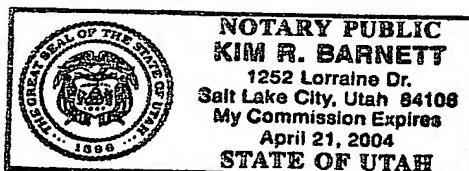
Acknowledged before me, a Notary Public, within and for said County and State. Witness my hand and Notarial Seal  
this 28 day of February, 2002.

  
Notary Public

Kim R. Barnett  
Printed Name

My Commission Expires: April 21, 2004

Resident of Salt Lake County





JUL 28 2005

## UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
10/074,178	02/12/2002	1645	942	7475-69889	12	24	3

23643  
BARNES & THORNBURG  
11 SOUTH MERIDIAN  
INDIANAPOLIS, IN 46204

RECEIVED

JUL 02 2002  
BARNES & THORNBURG

## CONFIRMATION NO. 5007

## UPDATED FILING RECEIPT



\*OC00000008358453\*

Date Mailed: 06/27/2002

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

**Applicant(s)**

David J. Eyre, Salt Lake City, UT;  
~~Carl T. Wittwer, Salt Lake City, UT,~~

**Domestic Priority data as claimed by applicant****Foreign Applications****If Required, Foreign Filing License Granted 06/26/2002****Projected Publication Date: 08/14/2003****Non-Publication Request: No****Early Publication Request: No****Title**

Multi-test analysis of real-time nucleic acid amplification

**Preliminary Class**

435